



## **Affiliated Tribes of Northwest Indians**

### **Economic Development Corporation**

February 5, 2007

Mr. Darryl Francois  
Attn: 1813 ROW Study  
Office of Indian Energy and Economic Development  
1849 C. St. NW, Mail Stop 2749-MIB  
Washington, DC 20240

Mr. David Meyer  
Attn: 1813 ROW Study  
Office of Electricity Delivery and Energy Reliability  
Department of Energy  
1000 Independence Ave, SW  
Washington, DC 20585

Dear Sirs,

Please allow this letter to serve as additional written comments of the Affiliated Tribes of Northwest Indians Economic Development Corporation (ATNI-EDC) on the December 21, 2006 Draft Report to Congress under the Energy Policy Act of 2005's Section 1813 Study on Indian Rights of Ways. Our previously submitted written comments, as well as our presentations and remarks at the public meetings are incorporated herein by reference. We very much appreciate that you have read and listened to the comments. The Draft Report is now a much more complete and responsible document.

Overall, we are very pleased with the Draft Report. It is obvious that many people spent many hours of effort on this report, and that decisions about the report's recommendations were considered through many points of view. We sincerely appreciate and support your recommendation.

We have a few minor technical suggestions to the document.

- On page 4 at line 25 there is a statement that the definition of tribal lands does not include energy ROWs on tribal fee lands, individual Indian trust allotments or individual Indian fee lands. This is generally an accurate statement, however in many cases, a tribe owns a portion of an interest in allotted or other lands. We understand that the report does not include case studies and we are not aware of other data regarding this situation. It may, however, be useful to mention this issue.

- On page 5 at line 30 there is an inclusion of “local distribution” which we believe to be incorrectly included in the sentence.
- On page 6 in the discussion of “National Energy Transportation Policies Related to Grants, Expansions, and Renewals of Energy ROWs on Tribal Land” we do not see a discussion of FERC policies, if any, regarding the inclusion of right of way costs as permissible costs for recovery in utility rates. This makes a difference because if FERC permits right of way costs to be included in interstate pricing of transmission, then the costs are passed along to transmission customers. If FERC does not permit costs of rights of ways to be recovered in transmission prices, then the costs must be covered from company profits. Such policies are of clear importance to utilities doing business in Indian Country. FERC’s authority for rate regulation is mentioned on page 9, line 18. Other discussion can be seen on page 35, beginning at line 44. Identifying an inconsistent policy at FERC, as can be seen in this language may be useful to clarify later negotiations. It may also be that some state policies also impact this concern; a discussion of which is outside the scope of the report.

We appreciate this opportunity to provide these comments. Thank you also for your time, efforts and considerations. These issues are extremely important to our membership, as well as to the utility companies with whom our members do business. Please direct any questions to Margaret Schaff, at 303-443-0182.

Sincerely,

*Margaret M. Schaff*

Margaret M. Schaff  
Energy Program Director